

1 IN THE UNITED STATES DISTRICT COURT FOR THE  
2 NORTHERN DISTRICT OF OKLAHOMA  
3

4 W. A. DREW EDMONDSON, in his )  
5 capacity as ATTORNEY GENERAL )  
6 OF THE STATE OF OKLAHOMA and )  
7 OKLAHOMA SECRETARY OF THE )  
8 ENVIRONMENT C. MILES TOLBERT, )  
9 in his capacity as the )  
10 TRUSTEE FOR NATURAL RESOURCES )  
11 FOR THE STATE OF OKLAHOMA, )  
12 )

Plaintiff, )

vs. )

10 TYSON FOODS, INC., et al, )  
11 )

Defendants. )  
12 )

No. 4:05-CV-00329-TCK-SAJ  
13 )  
14 )

15 THE VIDEO DEPOSITION OF DAVID BERRY,  
16 produced as a witness on behalf of the Defendants, in  
17 the above styled and numbered cause, taken on the 29th  
18 day of August, 2007, in the City of Tulsa, County of  
19 Tulsa, State of Oklahoma, before me, Marlene Percefull,  
20 Certified Shorthand Reporter, duly certified under and  
21 by virtue of the laws of the State of Oklahoma.  
22  
23  
24  
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1 telephone also do the same? 9:05AM

2 MS. GRIFFIN: Jennifer Griffin on behalf  
3 of Willow Brook Foods.

4 MR. SANDERS: Bob Sanders on behalf of  
5 Cal-Maine. 9:05AM

6 THE VIDEOGRAPHER: Thank you. The witness  
7 may be sworn.

8 DAVID BERRY,  
9 having first been duly sworn to testify to the truth,  
10 the whole truth and nothing but the truth, testified as  
11 follows:

12 DIRECT EXAMINATION

13 BY MR. GRAVES:

14 Q Could you state your full name?

15 A David Berry. 9:05AM

16 Q And, Mr. Berry, what is your address?

17 A P.O. Box 488, Locust Grove, Oklahoma, 74352.

18 Q And do you actually live in Locust Grove or is  
19 that in the country somewhere?

20 A I live about three miles outside of Locust Grove 9:06AM  
21 in the country.

22 Q Okay. Mr. Berry, have you ever given a deposition  
23 before?

24 A Years ago.

25 Q Okay. I'll just go through a few basics of giving 9:06AM

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1 Q What's the next thing? 3:34PM

2 A Well, it's about all I got to look at them. And  
3 then I go look at the field, you know, try to find a  
4 place that will work.

5 Q So you look at their Animal Waste Management Plan 3:35PM  
6 and based on your personal observations you will try to  
7 help them?

8 A Yes.

9 Q Find an area, a suitable place for their burial --

10 A Correct. 3:35PM

11 Q -- of the carcasses? Okay. To your knowledge,  
12 has any poultry grower who's contracted with Peterson  
13 Farms, during the time you've been a poultry inspector,  
14 done anything on their property to cause contamination  
15 of the waters of the State of Oklahoma? 3:35PM

16 A Not that I'm aware of.

17 Q You spoke with Mr. Graves quite a bit about  
18 complaints and when a complaint is filed and you  
19 indicated that sometimes you have to follow up, is that  
20 accurate? 3:36PM

21 A Uh-huh, yes.

22 Q Would you agree that it's in the poultry grower's  
23 best interest to comply and follow with the law?

24 A Yes.

25 Q Because if they don't, they can get their license 3:36PM

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1 Cobb has ever discharged poultry litter into the waters 4:27PM  
2 of the State of Oklahoma?

3 A Not that I'm aware of.

4 Q And have you ever noted in an inspection or  
5 received a complaint that a grower under contract with 4:27PM  
6 Tyson Foods or Cobb-Vantress has ever released poultry  
7 litter into the waters of the State of Oklahoma?

8 A Not that I'm aware of.

9 Q And you inspected poultry farms in the Illinois  
10 River watershed? 4:27PM

11 A Yes, sir, I do.

12 Q And do you respond to complaints with respect to  
13 poultry operations in the Illinois River watershed?

14 A Yes.

15 Q And if you had ever seen or been advised of a 4:27PM  
16 runoff, release or discharge of poultry litter into the  
17 waters of the State of Oklahoma, you would have done  
18 something about it, right?

19 A That's my job, yes, sir.

20 Q Okay. Is Locust Grove in the Illinois watershed? 4:28PM

21 A It's in Fort Gibson.

22 Q It's in Fort Gibson. Do you live in the Illinois  
23 watershed now?

24 A No.

25 Q And you never have? 4:28PM